



office of the  
independent  
adjudicator

**PRIVATE AND CONFIDENTIAL**

Mr Kevin Galalae  
258 Bicknell Cr.  
Kingston  
Ontario  
K7M 4T6  
CANADA

By post and e-mail

26 July 2010

Dear Mr Galalae

**Ref: OIA/09223/10**

**Your complaint against University of Leicester - Preliminary Decision**

Further to my e-mail of 9 July, I have now considered all the information submitted by you and the University with regard to your complaint. I enclose for your information a copy of an e-mail we have received from the University dated 10 June 2010.

On the basis of the information we have received from you and the University, I have reached a preliminary decision that your complaint is not justified. This report explains how I have reached that conclusion.

**Complaint**

1. You are complaining about the University's decision dated 28 April 2010 not to conduct a procedural review of your complaint. You say that
  - a. The University acted with prejudice towards your socio-political ideas and ideals
  - b. Your assignments were unfairly evaluated in order to get you to leave the programme of your own volition
  - c. The University engaged in censorship and thus perverted the sanctity of the academic environment
  - d. The University used a covert mechanism of censorship and surveillance to adhere to the requirements of CONTEST (the United Kingdom Strategy for Countering International Terrorism)
  - e. The University allowed a government agent operating from Dubai to dictate what can or cannot be discussed in the forums
  - f. The University has lied about the true identity and purpose of an individual who is clearly a covert government agent masquerading as a student

*'for students in higher education'*



- g. The University has breached British and European anti-discrimination legislation, specifically the Race Relations Amendment Act 2000 and the Race Relations Act 1976 (Amendment) Regulations 2003
  - h. The University has violated the Data Protection Act
  - i. The University has violated your rights of expression, as protected by the Human Rights Act 1998 and the European Convention of Human Rights, specifically Articles 9 and 10 regarding the freedom of thought and expression
  - j. The University violated Section 43 of the Education Act (No 2) relating to ensuring a student's freedom of speech
2. The remedy you are seeking is: financial compensation and disciplinary action against the University.

### **Background**

- 3. You registered at the University in September 2009 studying for an MA in International Relations and World Order by Distance Learning.
- 4. You became unhappy with the course and in November 2009 decided to withdraw
- 5. On 30 November 2009 Dr Simon Rofe, the Director of Distance Learning, e-mailed you and informed you that the University would be able to refund £100 to you based on the fees you had paid set against the time you were on the programme and an administration fee.
- 6. On 2 December 2009 you e-mailed Dr Rofe and informed him that you expected to be reimbursed the full amount of the fees you had paid, and would pursue the matter further through the University and, if the fee was not refunded, through a court of law. Dr Rofe passed your e-mail to Mrs Louise Masterman, the Principal Assistant Registrar in the Quality Office and Graduate School. She e-mailed you on 4 December 2009 and informed you that you would need to follow the University's Complaints Procedure.
- 7. On 6 December 2009 you submitted a complaint to Professor Phythian, Head of the Department of Politics and International Relations. You complained that your forum posts had met with disapproval from your course tutor, who had attempted to stifle debate and suppress your views and had been biased in his marking of your work. You said that the remedy you were seeking was full reimbursement of the fees you had paid, namely £941.66.
- 8. Professor Phythian responded to your complaint on 4 January 2010. He said that he found no evidence that your course tutor had acted inappropriately. He agreed with Dr Rofe's refund proposal and said that he did not see that there was a case for a full refund of fees. He said that if you were dissatisfied with his investigation of your complaint you could submit a formal complaint to Professor Elizabeth Murphy, Pro-Vice-Chancellor and Head of the College of Social Science.
- 9. On 4 January 2010 you submitted a formal complaint to Professor Murphy, complaining about Professor Phythian's refusal to reimburse your fees. On 20 January 2010 you e-mailed Professor Murphy and said that she should also consider that you had become aware that the module you attended for six weeks employed a secret debate facilitator who masqueraded as a regular student. You said that if the University chose to further delay the reimbursement of your



fees you would not hesitate to reveal this fact and to sue the University for censoring your constitutionally protected rights of freedom of speech and thought.

10. On 1 February 2010 Professor Murphy sent you her response to your complaint. She found that there was no evidence for your assertions and as a result did not uphold your complaint. She noted that since you had almost completed the course when you took your decision to withdraw from it, you would not normally be entitled to a full refund of your fees. However, as a gesture of goodwill from the University she was prepared to authorise a full refund on this occasion. She said that if you were not satisfied with the outcome of the consideration of your complaint, an appeal against the findings could be made through the Academic Registrar.
11. ON 12 February 2010 you e-mailed Professor Murphy. You said that while you were fully satisfied with the refund, and you were satisfied that this issue had been resolved, several issues remained unresolved, of which the most important were the fairness of the evaluation of your assignments and the true identity and function of the student whom you had referred to in your e-mail of 20 January as a "secret debate facilitator". For these reasons you wished to appeal to the Academic Registrar. You asked the University to provide you with information under the Data Protection Act and Freedom of Information Act.
12. On 17 February 2010 the Academic Registrar, Ms Kathy Williams, wrote to you in response to your request that your complaint should move to the final procedural review stage. She said that she had consulted the Senior Pro-Vice-Chancellor who would chair such a review, and he agreed with her that there were no grounds for taking your complaint further. She said that you specified in your complaint submission that all you wished to achieve was a refund of fees, and this had been granted to you. She said that your complaint was reviewed in a manner fully compliant with the University's regulations, so there could be no possibility of a procedural irregularity. She said that the fact that you now wished to raise other matters with the University was irrelevant; in order to ask for a consideration of those you would have to re-commence the complaints procedure, and as you were no longer a student you had no right of access to this, so this avenue was closed to you. She raised the issue of communications you were sending to other staff and students, which she said made wild and unsubstantiated allegations. She said that the University had been asked to act against you to prevent you harassing and bullying its members. She asked you to refrain with immediate effect from communicating with its staff and students, and to provide notification that you would stop communicating with or about those people and that you would refrain from making adverse public comments about the University.
13. You had further correspondence with the University with regard to the issue of a Completion of Procedures letter, the requests for information you had made (the University refusing your requests for personal data about members of staff and another student) and your wish to conduct a hunger strike in the University's grounds.
14. The OIA received your SAF on 7 April 2010. Following correspondence from the OIA, the University issued its Completion of Procedures letter on 28 April 2010.

### **OIA Review Process**

15. The purpose of the OIA's review is to decide whether a complaint is justified, partly justified, or not justified. In deciding whether this complaint is justified, we have considered whether the University applied its regulations properly and followed its own procedures correctly. We have

also considered whether any decision made by the University was reasonable in all the circumstances.

16. In considering the complaint, we have taken into account all of the documentation provided by you and the University of Leicester. Our decisions do not necessarily refer to all documentation provided and points raised in your complaint. We include all material which we consider necessary to make a decision about the complaint.
17. Under the rules of the OIA Scheme we cannot normally consider complaints that have not exhausted the University's internal complaints procedures. In your Scheme Application Form you have raised a number of issues which have not completed the University's internal procedures. These are the issues set out at Paragraph 1 sub-paragraphs d, e, g, h, i and j above.
18. Under the Rule 6.9 of the OIA Scheme we may terminate consideration of a complaint if we consider it appropriate where it appears to the Reviewer that the HEI has satisfactorily dealt with the complaint or there are other good reasons for doing so.

### **Review of Complaint and Findings**

19. As noted at paragraph 12 above, the final decision of the University was that there were no grounds to progress your complaint to the final procedural review stage, as you had been granted the refund of fees you were seeking.

20. I have considered the University's Student Complaints Procedure. This says:

*Appeals against the responses of senior officers to formal complaints must be submitted in writing to the Academic Registrar, Fielding Johnson Building, who will immediately acknowledge the receipt of any such appeal and assign a member of the administrative staff of the academic and Research Services to manage the appeal process. The appeal will be heard by a panel comprising either the Vice Chancellor, or the Senior Pro-Vice-Chancellor (in the Chair) and one other Pro-Vice-Chancellor..... The panel will interview the student, who may be accompanied by a member of the University of his/her choosing, the senior officer responsible for considering the complaint, and such other parties to the complaint as it feels necessary, and it will review all the relevant paperwork.....*

21. It does not appear that the final stage of the University's consideration of your complaint followed this procedure, as Ms Williams letter of 17 February 2010 refers to a final procedural review stage and consideration of whether there were grounds for taking your appeal further, which are not referred to in the Student Complaints Procedure.
22. However, notwithstanding this apparent deviation from the appeal process as described in the Student Complaints Procedure, I consider that the University's decision not to take your appeal against Professor Murphy's decision further was reasonable in all the circumstances of this case. This is because the stated purpose of your complaint to the University was to obtain a refund of the fees you had paid following your decision to withdraw from the course. Your e-mail of 2 December 2009 to Dr Rofo, quoted in paragraph 6 above, makes this clear. The e-mail you sent Dr Phythian on 6 December 2009 was headed "Appeal for tuition fee refund" and your e-mails of 4 January 2010 and 12 February 2010 to Professor Murphy were headed "appeal for fee refund". Both Dr Phythian and Professor Murphy provided detailed responses to the issues



you had raised in your complaint. While I appreciate that you were not satisfied with those responses and wished to raise further matters with the University (which you have now raised in your Scheme Application Form), I consider that by providing you with the remedy you were seeking in bringing your complaint, the University dealt with the matter in a satisfactory and proportionate manner, particularly bearing in mind that you voluntarily withdrew from the course at a late stage.

### **Conclusion**

23. For the reasons set out above, I consider that it was reasonable for the University to decide not to take your complaint further, as you had been granted the remedy you were seeking in bringing your complaint. My preliminary decision is therefore that your complaint is not justified.

### **Observation**

24. As noted in paragraph 21 above, the Student Complaints Procedure does not refer to a final procedural review stage, or to consideration of whether there are grounds for taking a complaint further, to an appeals panel. I will be suggesting to the University that if the University wishes to limit consideration of a complaint at the appeal stage to a procedural review, and to permit consideration of the grounds to see whether it is appropriate to take the complaint to an appeals panel, it should amend its Student Complaints Procedure to reflect this.

If you do not agree with my preliminary decision that your complaint is not justified you must write to us setting out your reasons (with any additional information or evidence) within 21 days. We will then decide whether to review your complaint further, or issue a Formal Decision Letter in relation to your complaint. If you need further time, please make sure you request this before the deadline, with your reasons. If we do not hear from you by 16 August a Formal Decision Letter will be issued in any event.

I am sending a copy of this letter to the University.

Yours sincerely



Fiona Draper  
Adjudication Manager

[fiona.draper@oiahe.org.uk](mailto:fiona.draper@oiahe.org.uk)

## Dominic Taylor

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**From:** Achurch, Sally F. [sfa1@leicester.ac.uk] on behalf of Williams, Kathy E. [kew6@leicester.ac.uk]  
**Sent:** 10 June 2010 10:08  
**To:** Dominic Taylor  
**Subject:** FW: Reimbursement of fees

Dear Dominic,

See below for the e-mail correspondence which confirms that an on-line refund was made to Mr Galalae on 15 February 2010. There has been no indication from Mr Galalae that he has not received the money, so we have assumed that the transfer was successful.

With best wishes

Kathy Williams

Sally Achurch  
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Times Higher Education Award for Outstanding Student Support 2009-10

Times Higher Education University of the Year 2008-9

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**From:** Palmer, Margaret  
**Sent:** 16 February 2010 10:18  
**To:** Williams, Kathy E.  
**Subject:** RE: Reimbursement of fees

Good Morning Sally

I would advise that this refund was made on line yesterday and Aimee had been waiting for the appropriate paperwork from the department to process the refund. Aimee had advised individuals of this and we have dealt with it as soon as we had the relevant documentation.

Yours

Margaret

Mrs Margaret J Palmer  
University Cashier  
University of Leicester  
University Road  
Leicester  
LE1 7RH

Tele: 0116 252 2380

Times Higher Education University of the Year 2008-9

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**From:** Achurch, Sally F. **On Behalf Of** Williams, Kathy E.  
**Sent:** 16 February 2010 09:47  
**To:** Palmer, Margaret  
**Subject:** Reimbursement of fees  
**Importance:** High

Dear Margaret,

Kathy is out of the office today in London and has asked me to pursue the reimbursement of fees for Mr Kevin Galalae (student number: 099012346). I think from reading his papers that the amount is £941.66 but I am not sure of this. Apparently Denise Challoner (Elizabeth Murphy's PA) has been chasing this up also as he has an ongoing complaint and he is making a bit of a nuisance of himself.

Can I therefore leave it with you to see where we are with this please.

With many thanks

Sally

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